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DTRA FOR OP-OS OP-OSA AND DIRECTOR
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DIA FOR LEA

E.O. 12958: DECL: 10/27/2019

TAGS: KACT MARR PARM PREL RS US START

SUBJECT: (U) START FOLLOW-ON NEGOTIATIONS, GENEVA
(SFO-GVA-VI): FIRST MEETING OF THE START FOLLOW-ON TREATY
TEXT AND DEFINITIONS WORKING GROUP, OCTOBER 19, 2009

REF: GENEVA 0856 (SFO-GVA-V-044)

Classified By: A/S Rose E. Gottemoeller, United States
START Negotiator. Reasons: 1.4(b) and (d).

11. (U) This is SFO-GVA-VI-003.

12. (U) Meeting Date: October 19, 2009
Time: 3:30 - 5:50 P.M.
Place: U.S. Mission, Geneva

SUMMARY

13. (S) The first meeting of the Treaty Text and Definitions Working Group (TTDWG) was held at the U.S. Mission on October 19, 2009. The Russian chair provided a Russian-proposed joint draft text (JDT) with a new formulation for the withdrawal and extension clauses of U.S.-proposed Treaty Article XIV. The U.S. chair provided new U.S.-proposed joint formulations for paragraph 1, Section I, and paragraphs 1 and 4, of Section II, of the Bilateral Consultative Commission (BCC) Protocol.

14. (S) The Russian Delegation clarified that its position on extension of the treaty would not require meetings to discuss one side's intent, and would set no deadline before which the Parties must meet to discuss extension. The Russian Delegation reiterated its need for a special provision in the withdrawal clause specifically providing for withdrawal in the event of "qualitative or quantitative buildup" in missile

defense systems, and cited Russia's continued concern about the potential threat to Russia's deterrent capability posed by U.S. missile defenses. Russian chair Mr. Koshelev explained that the issue behind making the proposal for direct communication between the BCC commissioners during the intersessional period limited to BCC-related matters was not a legal one, but to clarify for the Russian Ambassador in Washington the legitimate responsibilities of the commissioners.

¶5. (U) SUBJECT SUMMARY. Revised Draft Preamble; Treaty Extension; Strategic Missile Defense Buildup as Grounds For Withdrawal; and On the Bilateral Consultative Commission.

REVISED DRAFT PREAMBLE

¶6. (S) Following a discussion on a version of the draft preamble, which had been provided to Amb Antonov by A/S Gottemoeller, Koshelev agreed to provide the United States with a written list of questions on the revised draft preamble. Amb Ries said the U.S. Head of Delegation (HOD) would respond. (Begin comment: The list of questions was not received by the end of the week. End comment.)

TREATY EXTENSION

¶7. (S) Koshelev noted the productive discussions during the

last session on procedures to extend the treaty and asked Ms. Kotkova to clarify the Russian position. Walking through a new Russian proposal for paragraph 2 of Treaty Article XIV (Article XV in the Russian treaty draft), Kotkova explained the Russian side's opinion that if either of the Parties wanted to extend the Treaty, it could be done without holding a meeting to discuss extension. Additionally, Russia believed there should be no set deadline before which the Parties must consult to discuss extension; extension could be accomplished as little as one day before the Treaty expired. Kotkova and Koshelev confirmed Mr. Dean's observation that the core difference in their new proposal was that the U.S. proposal established an obligation to meet, whereas a meeting would be voluntary in the new Russian proposal. Taylor noted that the Russian proposal was worth study by the United States.

STRATEGIC MISSILE DEFENSE
BUILDUP AS GROUNDS FOR WITHDRAWAL

¶8. (S) Kotkova provided a new Russian proposal for the withdrawal clause in U.S. draft treaty Article XV, paragraphs 5 and 6, and reiterated the Russian position that the grounds for withdrawal based on extraordinary events related to the subject matter of the treaty included "a qualitative and quantitative buildup in the capabilities of strategic missile defense systems."

¶9. (S) Ries rejected the Russian argument for a special provision on defensive systems as a basis for withdrawal. She reminded the Russian Delegation that both sides had agreed the START Follow-on (SFO) Treaty was about strategic offensive arms and, therefore, it was inappropriate to include a special provision on defensive systems in the paragraph for withdrawal for extraordinary events related to the subject matter of this Treaty. She noted the U.S.-proposed general withdrawal clause was common to all arms control treaties and the approach for the SFO Treaty should be the same. Taylor added that the essence of the disagreement was in defining qualitative or quantitative potential for elements of a missile defense and pointed out that, with the exception of the bracketed Russian text on defensive systems, the United States could work with the text

in the rest of the paragraph.

¶10. (S) Koshelev disagreed that strategic defensive systems were unrelated to the SFO Treaty context. He argued that the existence of strategic defensive systems without limits was a unique and exclusive problem for this treaty, and that was why Russia had included the topic in the treaty's preamble. Our Presidents had included the interrelationship of strategic offensive and defensive systems in their Joint Understanding. Koshelev further explained that Russia understood the sole objective of strategic missile defenses was to intercept strategic offensive missiles and the more interceptors one side had, the weaker the other side's potential would be. Koshelev said the Russian side would insist on including the text on strategic defenses for the near term -- unless the sides could find a solution elsewhere -- and that the bracketed text be retained for discussion by the HODs.

¶11. (S) Ries asked whether the new Russian proposal (that the treaty would terminate three or six months after the date of the withdrawal notice, "unless the notice specifies a later date") implied there could be a longer period between notification of intent to withdraw and actual treaty termination. Kotkova indicated this was correct. During the discussion on strategic defenses, Koshelev explained that the Russian logic behind a three-month notice was the same as for the three-month withdrawal provision in the Moscow Treaty; the absence of the ABM Treaty and the potential need to respond to the rapid development of strategic missile defenses drove the decision to reduce the withdrawal period from six to three months.

¶12. (S) Ries emphasized that the subject of defensive arms was being discussed in other venues, which was appropriate. Recent talks in Moscow between Undersecretary of State Tauscher and Deputy Foreign Minister Ryabkov were specifically related to cooperation between Russia and the United States on emerging threats and defensive systems, with the implication being that such cooperation should be viewed as a positive step for development of a defensive capability against common threats and as an indication of the evolution of the relationship between the countries. Ries noted that the United States believed withdrawal should be in response to truly an extraordinary event or set of circumstances, and six months was a reasonable period.

¶13. (S) Koshelev admitted that the Russian side also viewed the talks in Moscow on missile defense cooperation as "promising," but cautioned that he had personally been working to develop such mutual cooperation for over 10 years and ADM Kuznetsov for over 20 years. Koshelev agreed to withhold assessment, and expressed his hope that current efforts would be more successful.

¶14. (S) Drawing a comparison with the Tauscher-yabkov discussions, which focused on joint assessments of threats from third countries, Venevtsev interjected that the Russians wanted this language in the SFO Treaty for a different reason. The Russian concern, he stated, was the threat to Russia's deterrent potential from U.S. missile defense. Ries pointed out that the United States had gone to great lengths to explain that its defensive systems should not be perceived to pose a threat to Russia.

¶15. (S) Lt Col Comeau asked whether the Russians viewed the words "withdraw" and "terminate" used in the first and last sentences of the new Russian proposal as synonymous. (Begin comment: Kotkova had mentioned earlier that the previous Russian drafts used language in the withdrawal clause that was not correct for a bilateral treaty. End comment.) Kotkova explained that, in the Russian concept, "withdraw" was a term related to multilateral treaties that remained in force despite withdrawal of one Party, whereas bilateral treaties "terminate" when one of the two Parties withdrew. Moreover, "withdrawal" would be the action taken by a state

and "termination" of the treaty would be the result of that act.

ON THE BILATERAL

CONSULTATIVE COMMISSION

¶16. (S) Ries asked if there were any questions on the U.S.-proposed JDT on the BCC Protocol, dated September 30, 2009, which was provided during the last session (REFTEL). Kotkova listed several differences between the drafts of the BCC Protocol and the existing Joint Compliance and Inspection Commission (JCIC) Protocol, which were confirmed by Amb Ries to be factually accurate. Ries explained that the changes were made to give the new treaty more flexibility and to make it more succinct. Koshelev said he agreed with the concept of a hybrid treaty, but claimed the draft BCC provisions had actually increased in volume, while the HODs expected the working groups to streamline provisions.

¶17. (S) Ries then introduced the U.S.-proposed new joint formulations for paragraphs I and II, BCC Protocol, dated October 19, 2009, and highlighted the streamlined formulation in paragraph II, subparagraph 1 on convening a session of the commission. Taylor explained the U.S. approach was to tighten up text using language proposed by both sides, and had moved the Russian bracketed first sentence (on the number of sessions to be held each year) down to the end where it made a more logical transition. Koshelev and Kotkova noted that the new joint formulation appeared to be word-for-word from the U.S. proposal except the final sentence, to which Ries responded that when examined closely, the penultimate sentence summarized language from both sides regarding submission of questions to the BCC. Koshelev had no further comments and indicated he would have his experts look it over.

¶18. (S) Ries moved on to the proposed new joint formulation for paragraph 4, on communication between the commissioners of the Parties during the intersessional period. She noted that the shorter text still provided the authorizations the Russian side desired. Koshelev replied that the new language still did not remove Russian concerns, and explained the issue was with the Russian Ambassador to the United States in Washington, Ambassador Kislyak, who wanted all contacts with the U.S. Government to go through his office. Koshelev explained that the U.S. proposal appeared to give the BCC authority over all matters between the two sides, rather than just those issues related to the BCC.

¶19. (S) Taylor asked whether the Russian concern over communication between the commissioners was about a possible resolution of a problem not within the purview of the BCC or the SFO or an attempt to solve something outside the treaty, or just a blanket statement that all communications must go through the Russian Embassy in Washington. Noting his respect for Kislyak, Koshelev explained that the issue was not a legal problem; the new joint formulation suited him personally, and then opined that sometime during the duration of the SFO, future heads of the BCC might resolve this problem with a new Russian ambassador. (Begin comment: He seemed to indicate that the phrase needed to be limited in the text to reassure Kislyak that the commissioners would only discuss SFO/BCC matters. End comment.)

¶20. (S) Ries explained the new proposed formulation on when to first communicate the names of the BCC commissioners, which clearly illustrated an effort to streamline text.

Koshelev admitted he liked this version, but deferred on making a decision. According to the current Russian position, the treaty provisions could not be provisionally applied, therefore, the Russian bracketed text for communication of the names no later than 30 days after entry into force remained the Russian position. Koshelev agreed

that keeping open the possibility of provisional application of the BCC was a sound idea and that Russia would study the proposal.

¶21. (U) Documents exchanged.

- U.S.:

-- U.S.-proposed new joint formulations for paragraphs I and II, BCC Protocol, October 19, 2009 (in English and unofficial Russian); and

-- U.S.-proposed Joint Draft Text and Unofficial Russian Translation of the Protocol on the Bilateral Consultative Commission (BCC), September 30, 2009 (in English).

- Russia:

-- Russian-proposed Joint Text of U.S. Treaty Article XIV, Withdrawal, October 19, 2009 (in Russian and unofficial English); and

-- Russian-proposed Joint Text of U.S. Treaty Article XIV, Extension, October 19, 2009 (in Russian and unofficial English).

¶22. (U) Participants:

U.S.

Amb Ries
Ms. Cherry
Lt Col Comeau
Mr. Connell
Mr. Dean
Mr. Dunn
Mr. Kvavilashvili
Mr. McConnell
Mr. Taylor
Ms. Zdravecky
Mr. Shkeyrov (Int)

RUSSIA

Mr. Koshelev
Ms. Fuzhenkova
Mr. Kamensky
Ms. Kotkova
Mr. Kuznetzov
Mr. Luchaninov
Mr. Venevtsev
Mr. Gayduk (Int)

¶23. (U) Gottemoeller sends.

GRIFFITHS